

STATE OF MICHIGAN  
COURT OF APPEALS

---

In the Matter of CALVIN COOK and DENINE  
COOK, Minors.

---

DEPARTMENT OF HUMAN SERVICES, f/k/a  
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED  
June 15, 2006

Petitioner-Appellee,

v

GEORGE COOK,

Respondent-Appellant.

No. 266151  
Wayne Circuit Court  
Family Division  
LC No. 01-399684-NA

---

Before: Kelly, P.J., and Markey and Meter, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating his parental rights under MCL 712A.19b(3)(g), (h), and (j). We affirm.

Respondent argues that the trial court clearly erred in finding that the statutory bases for termination were established by clear and convincing evidence. This Court reviews decisions terminating parental rights for clear error. Clear error has been defined as a decision that strikes this Court as more than just maybe or probably wrong. *In re Trejo*, 462 Mich 341, 357; 612 NW2d 407 (2000). Although the trial court clearly erred in finding that section (h) was established by clear and convincing evidence, this error was harmless where the trial court did not clearly err in finding that sections (g) and (j) were established. MCL 712A.19b(3).

There was no reasonable expectation that respondent would be able to provide proper care and custody for the children within a reasonable time. First, respondent was to be incarcerated for more than two years after the trial. Secondly, petitioner had provided numerous services to respondent and respondent continued to sell marijuana out of the children's home. Even if the two-year period for which respondent was to be incarcerated was a reasonable time, the evidence showed that respondent would not be able to provide proper care and custody where prior attempts at rehabilitation had failed. Therefore, the trial court did not clearly err in finding that section (g) was established by clear and convincing evidence.

The same facts also support the trial court's finding that section (j) was established by clear and convincing evidence. Respondent's drug dealing in the family home placed the

children in danger of harm if returned to his home. Prior attempts at rehabilitation had failed and the children would be at risk of harm if returned to a home where drugs were sold and weapons were within their easy reach. Therefore, the trial court did not clearly err in finding that section (j) was established by clear and convincing evidence.

Termination of parental rights is mandatory if the trial court finds that the petitioner established a statutory ground for termination, unless the court finds that termination is clearly not in the child's best interests. *Trejo, supra* at 344. Based on the facts above and our review of the entire record, we find that the trial court did not clearly err in its best interests determination.

Affirmed.

/s/ Kirsten Frank Kelly  
/s/ Jane E. Markey  
/s/ Patrick M. Meter